

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MR. DARRELL COMBS, and
MRS. KATHLEEN COMBS,
Plaintiffs,

v.

HOMER CENTER SCHOOL DISTRICT, and
JOSEPH F. MARCOLINE,
in his official capacity as
Superintendent of Homer-City School district,

Defendants.

04cv1599 LEAD

Consolidated for purpose of pretrial
Proceedings with 04-1670, 04-1932,
04-1936, 05-70(E), 05-203(J)

ELECTRONICALLY FILED

DR. THOMAS PREVISH AND
TIMARI PREVISH,
Plaintiff,

v.

NORWIN SCHOOL DISTRICT, and
RICHARD WATSON,
in his official capacity as
Superintendent of Norwin School District,
Defendants.

04cv1670

DR. MARK NEWBORN, and
MRS. MARY ALICE NEWBORN,
Plaintiffs,

v.

FRANKLIN REGIONAL SCHOOL
DISTRICT, ET AL., and
STEPHEN VAK,
in his official capacity as
Superintendent of Franklin Regional School District,
Defendants.

04cv1932

MR. THOMAS HANKIN, and
MRS. BABETTE HANKIN,
Plaintiffs,

04cv1936

v.

BRISTOL TOWNSHIP SCHOOL DISTRICT, and
REGINA CESARIO,
in her official capacity as
Superintendent of Bristol Township School District,
Defendants.

MR. DOUGLAS NELSON and
MRS. SHARI NELSON,
Plaintiffs,

05cv0070 (Erie)

v.

TITUSVILLE AREA SCHOOL DISTRICT, and
JOHN D. REAGLE, in his official
capacity as Acting Superintendent of
Titusville Area School District,
Defendant.

REV. STEVEN WEBER AND
MRS. MEG WEBER,
Plaintiffs,

05cv203 (J)

v.

DUBOIS AREA SCHOOL DISTRICT, and
SHARON KIRK,
in her official capacity as
Superintendent of Dubois Area School District,
Defendants.

ORDER OF COURT REMANDING STATE CLAIMS

On September 12, 2008, the United States Court of Appeals for the Third Circuit entered an Order and Opinion (Doc. No. 116), affirming this Court's grant of summary judgment in favor of defendant school districts on all of plaintiffs' federal constitutional claims, but vacating the

decision of this Court with regard to plaintiffs' claims under the Pennsylvania Religious Freedom Protection Act ("RFPA"), 71 Pa. Stat. Ann. §§ 2401–2407. As to said claims, the Court of Appeals stated as follows:

Parents' only remaining claim involves the interpretation of a state statute on which there is no Pennsylvania precedent. Because all federal issues have been decided on summary judgment and since Parents' RFPA claim raises a novel and potentially complex issue of State law, we will decline to exercise supplemental jurisdiction over Parents' pendent state law claim. 28 U.S.C. § 1367(c).

V.

For the foregoing reasons, we will affirm the District Court's grant of summary judgment in favor of the school districts on Parents' federal constitutional claims, vacate the District Court's holding regarding the pendent RFPA claim, and remand the case to the District Court with instructions to remand the RFPA claim to state court.

Combs v. Homer-Center School Dist., 540 F.3d 231, 254 (3d Cir. 2008).

On September 16, 2008, this Court entered an Order (Doc. No. 118) granting the parties' Joint Motion for Stay of Remand (Doc. No. 117) pending final disposition of the Plaintiffs' Petition for Certiorari from the decision of the Court of Appeals to the United States Supreme Court. By Text-Only Order of August 28, 2009, this Court entered an Order granting plaintiffs' unopposed Motion to Lift Stay (Doc. No. 119) because their Petition for Certiorari had been declined by the United States Supreme Court. Thus, the Stay has now been lifted, and it appears to this Court that the mandate of the United States Court of Appeals for the Third Circuit to "remand the RFPA claim to state court" must be implemented. Accordingly,

AND NOW, this 2nd day of September, 2009, IT IS HEREBY ORDERED that plaintiffs' state law claims under the Pennsylvania Religious Freedom Protection Act are REMANDED to their respective Courts of Common Pleas for further proceedings.

The Clerk of Court shall mark this case closed.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: all ECF registered counsel